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defendants as would be the case were he suing for damages resulting from non-feasance on part of defendants, but on the fact that defendants have negligently and wrongfully done, or caused to be done, something to his property which has injured it. The gist of the action is the breach by defendants of the duty which they owed to the plaintiff not to injure his property by any wrongful or negligent acts of theirs. That duty did not depend on or grow out of contract. The fact that plaintiff may have an action on the contract against C., does not relieve the defendants from liability to the plaintiff for their negligent and wrongful acts."

*Riparian Rights — Lands Bounded on Non-Navigable Lakes.* — In *Hardin* v. *Jordan*, 140 U. S. 371, the Supreme Court of the United States has decided that by the common law, under a grant of lands bounded on a non-navigable lake, the grantee takes to the centre of the lake. Grants by the United States of its public lands, bounded on waters, are to be construed according to the law of the State where the lands lie; and the rule of the common law still prevails in Illinois, notwithstanding a mere opinion of the court, not necessary to the decision of the case, in *Trustees of Schools* v. *Schroll*, 120 Illinois, 509, that a grant of lands bounded by a lake does not extend to the centre thereof. Three justices dissented, being of the opinion that, even if the common law was as stated, which they doubted, yet the opinion in *Trustees of Schools* v. *Schroll*, *supra*, amounted to a decision of the case, and established the rule in Illinois that the title of the riparian owner stopped at the water line. As to the value of recent English decisions, which declare the common law, the court says, in speaking of *Bristow* v. *Cormican*, 3 App. Cas. 641: "Of course this decision has not the controlling authority which it would have had if it had been made before our revolution. But it is the judicial decision of the highest authority in the British empire, and is entitled to the greatest consideration on a question like this, of pure common law."

*Liability of Employer—Proximate Cause—Contributory Negligence.* — The plaintiff was fireman on the engine of the defendant company. The air-brake was unsafe. The plaintiff and engineer were aware of its condition and that directed repairs had been neglected. Application of the brake at a danger signal failed to control the speed, where a sound brake would have stopped the train and prevented the injury to the plaintiff. Upon verdict for the plaintiff, the defendant moved for a new trial because the speed and not the

brake was the proximate cause of the injury, and the rate of speed too high for an unsound brake was due to the engineer's negligence; and that the plaintiff was guilty of contributory negligence by remaining at work after he knew of the condition of the brake. Wheeler, J., denied the motion (In *Young* v. *New Jersey Ry. Co.*, 46 Fed. Rep. 160), considering that it could not be assumed as a matter of law that the plaintiff was guilty of negligence in remaining at work after knowledge of a defect whose repair had been directed. Whether he was negligent in fact or not had been established by the decision of the jury; and similarly the question of proximate cause was ordinarily for the jury. Their verdict found that both the speed and brake were proximate causes of the injury, consequently the engineer and defendant company were joint wrong doers, and were jointly and severally liable.

*Insolvency—Discharge of Foreign Creditors—Stirn et al.* v. *McQuade et al.*, 22 At. R. 451. The defendants, residents of New Hampshire, were adjudged insolvent, and notice of the assignment was sent to the plaintiffs, who resided in New York. The latter, however, took no part in the proceedings, and some time after the settlement brought suit for the amount of their claim. The court says: "It is settled that the insolvent law of one State has no effect in another State against the citizens of the latter holding claims which follow the person of the creditor unless they place themselves under the jurisdiction of the law by voluntarily becoming parties to the insolvency proceedings. The question presented is whether a discharge in insolvency granted by an insolvent court of this State to one of its own citizens is a bar to an action brought by a citizen of another State in the courts of this State. As the insolvency court of this State had no jurisdiction over the plaintiffs as citizens of New York, the discharge granted to the defendants was inoperative as to the plaintiffs, and cannot be pleaded as a discharge of their claim. The plaintiffs' debt not being extinguished, they have an equal right to enforce the payment of it by suit in the courts of this State with other citizens having claims to be enforced."

*Telegraph Companies — Failure to Deliver Message — Mental Anguish.*—The Supreme Court of Mississippi, in *Western Union Telegraph Co.* v. *Rogers*, 9 South. Rep. 823, has decided that a telegraph company is not liable in damages for the mental anguish inflicted on the receiver of a message announcing the death of a relative, and the time and place of burial, when such message, by